

15 SOLE SOURCE

15.1 Definition

A sole source item is described as an item with *only a single supplier*. Many times agencies send requests for sole source purchases that describe an item made only by one manufacturer, however the item is distributed and readily available from many different suppliers. So it does not qualify for sole source. It has a sole manufacturer, but not a sole supplier. As long as there is more than one potential bidder or offeror for the property item there is no justification for a sole source determination.

Examples of circumstances which could necessitate a sole source purchase are:

- Where the compatibility of equipment, components, accessories, computer software, replacement parts or service is the paramount consideration.
- Where a sole supplier's item is needed for trial use or testing.
- Purchase of mass produced movie or video films or written publications distributed or sold primarily by the publisher.
- Purchase of property for which it is determined there is no functional equivalent.

15.2 Methods

Sole source items are exempt from the formal bidding process. All requests for sole source must be submitted in writing to the Division of Purchasing with justification for such action. The Division of Purchasing shall determine the validity of sole source purchase requests. In cases of reasonable doubt, competition is solicited in accordance with normal Division of Purchasing Rules.

After a sole source determination has been made, notice of the sole source procurement must be published. In most cases the Division of Purchasing will post the notice on the Internet.

15.3 Division of Purchasing Rules Regarding Sole Source

IDAPA 38.05.01

045. SOLE SOURCE PURCHASES.

01. Only A Single Supplier. Sole source purchase shall be used only if a requirement is reasonably available from a single supplier. A requirement for a particular proprietary property item does not justify a sole source purchase if there is more than one (1) potential bidder or offeror for that property item.

02. Examples Of Sole Source. Examples of circumstances that could necessitate a sole source purchase are:

- a. Where the compatibility of equipment, components, accessories, computer software, replacement parts or service is the paramount consideration.
- b. Where a sole supplier's item is needed for trial use or testing.
- c. Purchase of mass produced movie or video films or written publications distributed or sold primarily by the publisher.
- d. Purchase of property for which it is determined there is no functional equivalent.

03. Administrator Makes Determination. The determination as to whether an acquisition shall be made as a sole source shall be made by the administrator. Each request shall be submitted in writing by the using agency. The administrator may specify the application of such determination and its duration. In cases of reasonable doubt, competition should be solicited. Any request by a using agency that an acquisition be restricted to one (1) potential contractor shall include an explanation as to why no other contractor is acceptable.

04. Negotiation In Sole Source Purchase. The buyer shall conduct negotiations, as appropriate, as to price, delivery and terms.

15.4 Idaho Statute Regarding Emergency Purchasing

67-5720. ACQUISITION IN OPEN MARKET -- EMERGENCY PURCHASES.

(1) The administrator may allow:

- (a) The purchase of property in the open market, provided such items are not available from the maintenance of stocks authorized by section 67-5727, Idaho Code, where the administrator finds that a particular savings to the state may be had through the use of educational discounts, acquisition of federal

surplus or excess property, reverse public auctions, where there is only one (1) vendor for the property to be acquired or under other circumstances approved by the director of the department of administration.

(b) The purchase of property by open purchase when immediate delivery of property is required by the public exigencies and the administrator of the division of purchasing has declared that an emergency exists, but at all times such purchases shall be made under the direction of the administrator.

(2) When there is only one (1) vendor for the property to be acquired, unless the property is required for a life-threatening situation or a situation that is immediately detrimental to the public welfare or property, notice of a sole source procurement shall be published. The notice may be electronic. Payment vouchers for emergency acquisitions must contain upon their faces the justification for such purchases.